

AMENDED IN SENATE MAY 3, 1995

AMENDED IN SENATE FEBRUARY 21, 1995

## Senate Constitutional Amendment

**No. 3**

**Introduced by Senator Maddy**

December 5, 1994

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Senate Constitutional Amendment No. 3—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by repealing and adding Section 19 of Article IV thereof, relating to gaming.

### LEGISLATIVE COUNSEL'S DIGEST

SCA 3, as amended, Maddy. California Gaming Control Commission: Division of Gaming Control.

(1) Existing provisions of the California Constitution permit certain kinds of gaming in this state, including wagering on the results of horseracing, bingo for charitable purposes, and the operation of a state lottery. Existing provisions of the California Constitution require the Legislature to prohibit casinos of the type currently operating in Nevada and New Jersey.

This measure would create the California Gaming Control Commission, and would authorize the commission to regulate *and license* legal gaming in this state, subject to legislative control. The measure would also create a Division of Gaming Control within the office of the Attorney General, and would permit the Legislature to impose licensing fees on all types of gaming regulated by the commission to support the activities of the commission and the division. The measure would

provide for the regulation of bingo by the commission, and would provide that the proceeds of those games shall be used exclusively to further the charitable, religious, or educational purposes of a nonprofit organization or institution that is exempt from state taxation.

(2) Existing statutory law establishes the California State Lottery Commission and requires the commission to administer the California State Lottery Act of 1984. Under existing statutory law, the California Horse Racing Board regulates horseracing and wagering thereon.

This measure would permit the Legislature to provide for the regulation by the commission of both parimutuel wagering on horseracing and the state lottery.

This measure would exclude from the meaning of “gaming” merchant promotional contests and drawings conducted incidentally to bona fide nongaming business operations under specified conditions, and certain types of machines that award only additional play. The measure would prohibit the state lottery from using any slot machine, whether mechanical, electromechanical, or electronic.

The measure would require the Legislature to provide for the recording and reporting of financial transactions by commercial gaming establishments.

The measure would also define “casino” for the purpose of the prohibition against casinos.

(3) Under existing statutory law, the California Horse Racing Board is the state entity responsible for negotiating with Indian tribes for the purpose of entering into a tribal-state compact governing the conduct of horseracing activities on Indian lands of the tribe. No other person or entity is authorized to negotiate tribal-state compacts governing gaming on Indian lands.

This measure would authorize the Governor to negotiate and execute *tribal-state* compacts with Indian tribes ~~which~~ *that* would permit and regulate ~~video display terminals slot machines~~ located on Indian lands, *as defined*.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring, That*  
2 *the Legislature of the State of California at its 1995–96*  
3 *Regular Session commencing on the fifth day of*  
4 *December, 1994, two-thirds of the membership of each*  
5 *house concurring, hereby proposes to the people of the*  
6 *State of California that the Constitution of the State be*  
7 *amended as follows:*

8 First—That Section 19 of Article IV thereof is repealed.

9 Second—That Section 19 is added to Article IV thereof,  
10 to read:

11 Sec. 19. (a) No form of gaming is permitted in this  
12 state or anywhere within its jurisdiction except as  
13 authorized by this section, and the Legislature shall have  
14 no power to permit any form of gaming except as  
15 authorized by this section. For purposes of this section,  
16 “gaming” does not include (1) merchant promotional  
17 contests and drawings conducted incidentally to bona  
18 fide nongaming business operations, if prizes are awarded  
19 without consideration being charged to participants or  
20 (2) vending machines, weighing machines, music  
21 machines, or amusement games that award only  
22 additional play. The Legislature shall provide for the  
23 enforcement of this section.

24 (b) The Governor is the designated state officer  
25 responsible for negotiating and executing, on behalf of  
26 the state, *tribal-state* compacts with federally recognized  
27 Indian tribes in the State of California pursuant to federal  
28 law. The Governor may, but is not required to, negotiate  
29 and execute tribal-state compacts permitting and  
30 regulating ~~video—display—terminals~~ *slot machines* located  
31 in gaming facilities on Indian lands. The Governor may  
32 regulate, in accordance with the tribal-state compacts,  
33 ~~video—display—terminals~~ *slot machines*, including limiting  
34 the location, variety, and number of ~~video—display~~  
35 ~~terminals~~ *slot machines* that may be authorized. *As used*  
36 *in this subdivision, “Indian lands” means all lands that*  
37 *were within the boundaries of any Indian reservation on*  
38 *January 1, 1994, and any lands title to which was held in*  
39 *trust by the United States for the benefit of any Indian*  
40 *tribe on January 1, 1994.*

1 (c) The Legislature has no power to authorize, and  
2 shall prohibit, casinos. For the purposes of this  
3 subdivision, “casino” means any place, including, but not  
4 limited to, any house, building, outbuilding, structure,  
5 vessel, ship, craft, aircraft, vehicle, or mobilehome in  
6 which unauthorized gaming is played, conducted, or  
7 dealt.

8 (d) Any gaming activity consisting of any mechanical,  
9 electromechanical, or electronic simulation or facsimile  
10 of any authorized gaming activity is prohibited, and the  
11 Legislature shall provide criminal penalties for the  
12 conduct of that activity.

13 (e) The use, possession, transportation, or  
14 manufacture of any slot machine, as defined by the  
15 Legislature, whether mechanical, electromechanical, or  
16 electronic, is prohibited, and the Legislature shall  
17 provide criminal penalties for the conduct of that activity.

18 (f) All banked or percentage games are prohibited,  
19 and the Legislature shall provide criminal penalties for  
20 the conduct of that activity. *Pai-gow and panguingue*  
21 *(pan) are not banked or percentage games.*

22 (g) Nothing in this section shall be construed to  
23 authorize any form of gaming activity not authorized by  
24 state law on the effective date of this section.

25 (h) The Legislature may provide for the regulation of  
26 horseraces and horserace meetings and wagering on the  
27 results, and may provide for the regulation by the  
28 California Gaming Control Commission of those  
29 activities.

30 (i) The Legislature, by statute, may authorize counties  
31 and cities to permit bingo games subject to regulation by  
32 the commission. The proceeds of those bingo games shall  
33 be used exclusively to further the charitable, religious, or  
34 educational purposes of a nonprofit organization or  
35 institution that is exempt from state taxation.

36 (j) There is authorized the establishment of a  
37 California State Lottery. The Legislature may provide for  
38 the regulation by the commission of the state lottery. The  
39 state lottery shall not use any slot machine, as defined by



1 the Legislature, whether mechanical, electromechanical,  
2 or electronic, in the conduct of a state lottery.

3 (k) The Legislature may provide for the regulation of  
4 games of chance, other than banked or percentage  
5 games.

6 (l) The Legislature shall provide for the recording and  
7 reporting of financial transactions by commercial gaming  
8 establishments.

9 (m) There is within state government the California  
10 Gaming Control Commission. The commission is vested  
11 with legislative, executive, and judicial powers to  
12 regulate and license all gaming authorized by this  
13 Constitution as follows:

14 (1) Except for parimutuel wagering on horseracing  
15 and the state lottery, all gaming permitted by this  
16 Constitution shall be unlawful unless licensed by the  
17 commission. The Legislature shall specify the terms and  
18 conditions under which the commission may prohibit or  
19 restrict any game otherwise authorized by this  
20 Constitution. Nothing in this subdivision precludes  
21 counties and cities from concurrently licensing and  
22 regulating gaming consistent with state law and the  
23 regulations of the commission. With the exception of  
24 parimutuel wagering and the state lottery, counties and  
25 cities may prohibit any game of chance not prohibited by  
26 this Constitution.

27 (2) The California Gaming Control Commission  
28 consists of a chairperson and four members. The  
29 members shall consist of the Chairperson of the California  
30 State Lottery Commission, the Chairperson of the  
31 California Horse Racing Board, and two retired justices  
32 from the courts of appeal or the Supreme Court. The  
33 Senate Committee on Rules and the Assembly  
34 Committee on Rules shall each appoint one of the retired  
35 justices. The Governor shall appoint the chairperson of  
36 the commission.

37 (3) The terms of members appointed to the  
38 commission shall be five years. The Chairperson of the  
39 California State Lottery Commission shall serve for the  
40 same term as his or her term of office with the California

1 State Lottery Commission, and the Chairperson of the  
2 California Horse Racing Board shall serve for the same  
3 term as his or her term of office with the California Horse  
4 Racing Board. Of the members initially appointed, the  
5 term of the justices appointed by the Senate Committee  
6 on Rules and the Assembly Committee on Rules shall be  
7 two years, and the term of office of the chairperson  
8 appointed by the Governor shall be five years.

9 (4) Vacancies shall be filled within 60 days by the  
10 appropriate appointing authority.

11 (5) No more than three members of the commission  
12 shall be members of the same political party.

13 (6) No member of the commission shall have any  
14 pecuniary interest, direct or indirect, in any gaming  
15 enterprise or activity.

16 (n) There is within the office of the Attorney General  
17 a Division of Gaming Control. As specified by the  
18 Legislature, the division is vested with all investigatory,  
19 enforcement, and related powers in support of the  
20 commission with respect to gaming in California.

21 (o) The Legislature may impose licensing fees on all  
22 types of gaming regulated by the commission to support  
23 the activities of the commission and the division  
24 including, to the extent consistent with federal law, the  
25 enforcement of gaming laws on Indian lands.

26 (p) The Legislature may enact all laws necessary to  
27 implement this section.

